

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

**Mark McGriff, Board of Trustees Chairman, and)
Doug Robinson, Board of Trustees Secretary, on behalf of)
INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL)
OF CARPENTERS PENSION FUND;)**

**Mark McGriff, Board of Trustees Chairman, and)
Greg Hauswald, Board of Trustees Secretary on behalf)
INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL)
OF CARPENTERS DEFINED CONTRIBUTION)
PENSION TRUST FUND;)**

**Mark McGriff, Board of Trustees Co-Chairman, and)
William Nix, Board of Trustees Co-Chairman, on behalf)
of INDIANA/KENTUCKY/OHIO REGIONAL)
COUNCIL OF CARPENTERS WELFARE FUND;)**

**Mark McGriff, Board of Trustees Chairman, and)
Joe Coar, Board of Trustees Secretary, on behalf of)
INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL)
OF CARPENTERS JOINT APPRENTICESHIP AND)
TRAINING FUND;)**

**Douglas J. McCarron, Board of Trustees Chairman,)
on behalf of UNITED BROTHERHOOD OF)
CARPENTERS APPRENTICESHIP TRAINING FUND)
OF NORTH AMERICA;)**

and,)

**INDIANA/KENTUCKY/OHIO REGIONAL)
COUNCIL OF CARPENTERS,)**

Plaintiffs,)

vs.)

MIDSTATES CONCRETE CONSTRUCTION, LLC)

Defendant.)

CASE NO. 2:18-cv-350

COMPLAINT

Plaintiffs **Mark McGriff, Board of Trustees Chairman, and Doug Robinson, Board of Trustees Secretary, on behalf of INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS PENSION FUND; Mark McGriff, Board of Trustees Chairman, and Greg Hauswald, Board of Trustees Secretary on behalf of INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS DEFINED CONTRIBUTION PENSION TRUST FUND; Mark McGriff, Board of Trustees Co-Chairman, and William Nix, Board of Trustees Co-Chairman, on behalf of INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS WELFARE FUND; Mark McGriff, Board of Trustees Chairman, and Joe Coar, Board of Trustees Secretary, on behalf of INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS JOINT APPRENTICESHIP AND TRAINING FUND; Douglas J. McCarron, Board of Trustees Chairman, on behalf of UNITED BROTHERHOOD OF CARPENTERS APPRENTICESHIP TRAINING FUND OF NORTH AMERICA; and, INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS**, by their attorneys, **PAUL T. BERKOWITZ & ASSOCIATES, LTD.**, complain of Defendant **MIDSTATES CONCRETE CONSTRUCTION, LLC** stating as follows:

COUNT I

1. This action arises under and jurisdiction resides with this Court pursuant to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §1001, et seq., ("ERISA") and more particularly under Sections 502 and 515 of ERISA, 29 U.S.C. §1132 and §1145, and is brought by Plaintiffs **Mark McGriff, Board of Trustees Chairman, and Doug Robinson, Board of Trustees Secretary, on behalf of INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS PENSION FUND; Mark McGriff, Board of**

Trustees Chairman, and Greg Hauswald, Board of Trustees Secretary on behalf of INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS DEFINED CONTRIBUTION PENSION TRUST FUND; Mark McGriff, Board of Trustees Co-Chairman, and William Nix, Board of Trustees Co-Chairman, on behalf of INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS WELFARE FUND; Mark McGriff, Board of Trustees Chairman, and Joe Coar, Board of Trustees Secretary, on behalf of INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS JOINT APPRENTICESHIP AND TRAINING FUND; Douglas J. McCarron, Board of Trustees Chairman, on behalf of UNITED BROTHERHOOD OF CARPENTERS APPRENTICESHIP TRAINING FUND OF NORTH AMERICA (collectively referred to as the “Trust Funds”) in order to judicially enforce the obligations owed, and breached, by Defendant **MIDSTATES CONCRETE CONSTRUCTION, LLC** (“Midstates”) to the Plaintiffs Trust Funds. More specifically, Plaintiffs Trust Funds seek an order compelling Defendant Midstates to pay the delinquent contributions now known due for the period of January 1, 2016 through September 17, 2018 to the Plaintiffs Trust Funds. Plaintiffs Trust Funds also seek an order directing Midstates to pay liquidated damages and interest on the delinquent contributions, plus attorneys' fees and costs incurred by Plaintiffs as a result of being forced to bring this action.

2. Plaintiffs Trust Funds are employee benefit funds within the meaning of and subject to ERISA. The Plaintiffs Trust Funds provide benefits for employees working within this judicial district and are, themselves, administered in this judicial district, with the exception of UBCATF.

3. At all times materials herein, Defendant Midstates has employed employees within this judicial district.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) and 28 U.S.C. § 1391(b)(2).

5. At all times material herein, Defendant Midstates has been a signatory to a collective bargaining agreement with the Indiana/Kentucky/Ohio Regional Council of Carpenters ("Union") and, as such, is bound by the Plaintiffs Trust Funds' Agreements and Declarations of Trust ("Trust Agreements").

6. Defendant Midstates breached the Agreements identified in Paragraph 4 of this Count and is in violation of Sections 502 and 515 of ERISA (and 29 U.S.C. § 185) by failing to pay the delinquent contributions and contractually required interest and liquidated damages now known due for the period of January 1, 2016 through September 17, 2018 to the Plaintiffs Trust Funds.

7. Despite Plaintiffs Trust Funds' requests, Defendant Midstates has failed to pay the contractually and statutorily required monies.

8. Plaintiffs Trust Funds have satisfied all statutory prerequisites as set forth in 29 U.S.C. §1132 (h).

WHEREFORE, Plaintiffs Trust Funds pray this Court order that:

1. Defendant Midstates to pay the delinquent contributions, plus interest and liquidated damages for the period of January 1, 2016 through September 17, 2018 owed to Plaintiffs Trust Funds;

2. Defendant Midstates pay statutory post-judgment interest on all principal contributions found due by this Order;

3. Defendant Midstates pay Plaintiffs Trust Funds' attorneys' fees and costs incurred herein; and,

4. Such other and further relief that this Court may find just and proper be entered against Defendant Midstates.

COUNT II

1. Plaintiff **INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS** ("Union") is a labor organization whose duly authorized officers or agents are engaged in representing or acting for employee members within this judicial district.

2. At all times material herein, Defendant **MIDSTATES CONCRETE CONSTRUCTION, LLC** ("Midstates") has been engaged in an industry affecting interstate commerce and employs individuals working within this judicial district.

3. This Court has jurisdiction of this action pursuant to Section 301 of the Labor-Management Relations Act, 1947, as amended, 29 U.S.C. §185 ("LMRA").

4. Venue is appropriate in this Judicial District because Defendant Midstates resides within this Judicial District and a substantial part of the events or omissions giving rise to the claim occurred within this Judicial District.

5. At all times material herein, Defendant Midstates has been signatory to a collective bargaining agreement with the Union. Included among the contractual obligations between the parties is the requirement that Midstates make payroll deductions to the Union.

6. Defendant Midstates breached its contractual obligations to the Union by failing to pay the delinquent deductions, plus interest and liquidated damages, owed thereon for the period of January 1, 2016 through September 17, 2018.

7. Despite the Union's request, Defendant Midstates has failed to pay the monies identified in this Count.

WHEREFORE, Plaintiff Union prays this Court order that:

1. Defendant Midstates pay the delinquent deductions, interest and liquidated damages owed for the period of January 1, 2016 through September 17, 2018 to the Plaintiff Union;
2. Defendant Midstates pay statutory post-judgment interest on all principal deductions found due by this Order;
3. Defendant Midstates pay Plaintiff Union's attorneys' fees and costs incurred herein; and,
4. Such other and further relief that this Court may find just and proper be entered against Defendant Midstates.

Respectfully submitted,

PAUL T. BERKOWITZ & ASSOCIATES, LTD.

By /s/ Paul T. Berkowitz
PLAINTIFFS' ATTORNEYS

PAUL T. BERKOWITZ & ASSOCIATES, LTD.
123 West Madison Street, Suite 600
Chicago, Illinois 60602
P: (312) 419-0001
F: (312) 419-0002
E: paul@ptblaw.com
Attorney ID #19025-49